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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/312,922	05/17/1999	DR. VINCENT MICHAEL FIGUREDO	ICOM-00401	3206

7590 05/02/2005

KENDYL ROMAN
730 BANTRY COURT
SUNNYVALE, CA 94087-3402

EXAMINER

PHILIPPE, GIMS S

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/312,922

Applicant(s)

FIGUREDOTO ET AL.

Examiner

Gims S. Philippe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 23-27 and 32-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 23-27 and 32-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04272005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. Applicant's amendment received on February 12, 2005 has been fully considered and entered, but the arguments are not deemed to be persuasive.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 23-27, and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US Patent no. 5715823) in view of McDonald (US Patent no. 5920317) for the same reasons as previously set forth in the last office action mailed on August 11, 2004 paper no. 23.

Regarding claim 1-7, 23-27, and 33-37, the applicant gave several definitions of Video to show that Wood does not specifically disclose the claimed invention. The applicant particularly argues that Wood does not disclose the display of live transmission of video. The examiner respectfully disagrees because it was previously acknowledged that while in fig. 1, item 32, Wood provides a Web browser wherein a user can receive live data over the internet. McDonald was introduced to show the claimed video stream

generation (See McDonald col. 4, lines 15-18). It should be noted that the combination of Wood and McDonald meet the limitations since Wood suggest transmitting ultrasonic information and McDonald transmit MPEG formatted video signals (See McDonald Fig. 1, and col. 3, lines 46-64). Therefore, the proposed combination discloses the argued limitations.

The applicant argues that *"McDonald does not teach receipt of the video stream by a transmitter which then distributes the video streams over network where the video stream is received by a receiver"*. The examiner respectfully disagrees since McDonald clearly discloses a client/server architecture as well as transmitting video signal stream (See McDonald col. 3, lines 46-65, and col. 4, lines 6-20).

The applicant argues that McDonald teaches capture of a video stream from a medical test device which is stored in a file on a capture module, but does not teach receipt of the video stream. The examiner respectfully disagrees because the Wan suggests clients machines receiving video stream in col. 3, lines 55-58 (note that the video data is in MPEG format) which support live streaming.

The applicant further argues that there is no teaching of Wood controlling the video frame rate and frame size. The examiner respectfully disagrees since such feature is disclosed in McDonald's col. 9, lines 62 to col. 10, lines 15, and in col. 10, lines 44-45 wherein a frame rate control bar 144 is disclosed.

The applicant argues that Wood lack any motivation for starting and stopping the transmission. The examiner respectfully disagrees. The applicant should note that a user reviewing the images handling the retrieval and display of MPEG files as disclosed in col. 9, lines 38-60 will start and stop the transmission.

4. Claims 32, and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US Patent no. 5715823 in view of MCDonald (US Patent no. 5920317) as applied to claims 23 and 33 above, and further in view of Gillio (US Patent no. 5,882,206) and Ostrow (US Patent no. 6,009,346) for the same reasons as previously set forth in the last office action mailed on August 11, 2004 paper no. 23.

Regarding claims 32, and 38-43, the applicant argues that Gillio does not teach that any of the patient video which is generated by the medical device at the site of the patient is received by the surgeon. The examiner respectfully disagrees since such limitation is found in Gillio col. 17, lines 2-35.

It is the examiner's belief that all the claimed limitations were previously met. In other words, the previously mailed Office action is the answer to many of the applicant's arguments. In fact, a simple look at the sections cited by the examiner in the previous action will show that many of the arguments have been previously answered in a self explanatory manner. It is therefore, the examiner intent to refers the applicant back to

the action mailed the 11th of August, 2004 in order to expedite the prosecution. The examiner did consider the arguments, however, they are not deemed to be persuasive and no new prior art is necessary at this time.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

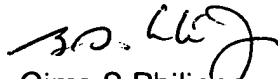
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (9:30-7:00) Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gims S Philippe
Primary Examiner
Art Unit 2613

GSP

April 28, 2005